IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO.1490 OF 1997

Usman Gafur Kazi & Ors, Petitioners.

Vs

Bapu vishram Gurav, since deceased
by L.Rs 1. narmada Bapu Gurav
and ors. .. Respondents.

Smt. V.S.Dighe, for the petitioners.
Ms. Anjali Desai for R.Nos 1 to 6

CORAM : D.B.BHOSALE,J.

DATE : 30th August, 2005.

PC:

1. Heard learned counsel for the petitioners.

2. This petition is directed against the judgment and order dated 4.3.97 passed by the Jt. District Judge, Sindhudurg at Oros below Exhibit-6 in Regular Civil Suit no.48 of 1996, by which the said application

seeking injunction against the petitioners-defendants has been allowed. The operative part of the order dated 4.3.1997 reads thus:

> "1. The application is allowed.
> 2. The respondents-defendants are hereby restrained that they should not obstruct the appellants-plaintiffs' vahivat and possession in the suit lands Survey No.145, Hissa No.1-A and Survey No.145, Hissa No.1-B along with mango trees therein till the decision of Regular Civil Appeal No.48 of 1996.
> 3. In the circumstances, the costs will be the causes in the costs."

3. This Court, while issuing rule in the petition on 21.3.1997, passed the following order.

> Rule.
>
> Interim order in terms of prayer (b).
>
> Prayer (b) runs as under :-
>
> "(b) for an order staying the operation of the interim order dated 4.3.1997 passed by the Jt. District Judge, Sindhudurg at Oras in Civil Appeal No.48 of 1996 arising out of Regular Civil Suit No.45 of 1990, pending the hearing and final disposal of this writ petition."
>
> However, hearing of Civil Appeal No.48

> of 1996 pending before the Joint District Judge, Sindhudurg to proceed and the learned Judge is directed to decide and dispose of the same as early as possible.
>
> Certified copy expedited.

Ms.Dighe, learned counsel for the petitioners, submits that she has no instructions as to whether Civil Appeal No.48 of 1996 has been disposed of as directed by the aforesaid order. None appears for the respondents. Considering the nature of the impugned order and the interim order passed by this Court on 21.3.1997, which operates till today, in my opinion, following order will meet the ends of justice.

(a) The interim order passed by this Court on 21.3.1997 shall remain operative till disposal of Civil Appeal No.48 of 1996, if not disposed of already.

(b) The Appeal Court shall decide Civil Appeal No.48 of 1996 as expeditiously as possible and preferably within a period of six months from today, if not disposed of already, on merits in accordance with law and uninfluenced by the orders passed in the

proceedings arising from Exhibit-6 application.

(c) While passing the interim order and disposing of this petition in terms thereof, this Court shall not be understood to have expressed any opinion on merits of this case. Rule is accordingly disposed of.

(D.B.BHOSALE, J.)